

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

# UNITED STATES OF AMERICA

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VS.

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**CRIMINAL ACTION NO. C-09-349**

RAFAEL DE LA CRUZ

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**MEMORANDUM OPINION AND ORDER OF DETENTION PENDING TRIAL**

A detention hearing has been held in accordance with the Bail Reform Act, 18 U.S.C. § 3142(f). The following requires detention of the defendant pending trial in this case:

- (1) There is a serious risk that the defendant will not appear for court as required; and
  - (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

The evidence against the defendant meets the probable cause standard. The findings and conclusions contained in the Pretrial Services Report and the first addendum are adopted. The defendant was on bond for a controlled substance offense when he committed this offense. He also has committed controlled substance offenses while on probation in the past, reflecting that he is either unwilling or unable to comply with court-ordered conditions of release. Because of enhancements, he is possibly facing a life sentence. The defendant is a derived United States citizen with significant ties to Mexico. In spite of his poor health, the defendant is a poor bond risk.

The defendant is committed to the custody of the Attorney General or his

designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

ORDERED this 7th day of October, 2009.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE